

# **Libby Community Advisory Group**

## **Meeting Summary**

### **February 12, 2009**

#### **Introductions**

Gerald Mueller and members of the Libby Community Advisory Group (CAG) introduced themselves. Clinton Maynard joined the CAG. A list of the members in attendance is attached below as Appendix 1.

Before proceeding with the meeting agenda approved below, Mr. Mueller noted that no representative of EPA is present at this meeting. Mr. Mueller stated that he received an email from Ted Linnert on Wednesday, February 11 stating that the new EPA team leader, Victor Ketellapper, has a different approach to the CAG and TAG meetings. Quoting from the email message, Mr. Ketellapper "...wants the community to discuss their issues without EPA present and then bring their consensus opinion/questions/recommendations to EPA at some other forum or by invitation to the combined meeting."

*CAG Member Question - Would you please include a copy of Mr. Linnert's email message with the meeting summary?*

Answer by Mr. Mueller - Yes. See Appendix 2.

*CAG Member Comment - For the last three days, Mr. Ketellapper has met with community groups except for the Technical Advisory Committee and the CAG. I have a copy of Mr. Ketellapper's schedule which I ask be included with the meeting summary.*

Response by Mr. Mueller - I will include it in the summary. See Appendix 3.

*CAG Member Comment - Mr. Linnert has set out to undermine the TAG and CAG as is evident by his references to the "vocal minority".*

*CAG Member Comment - EPA not attending CAG meetings breaks a nine year precedent.*

*CAG Member Comment - It would have been courteous for Mr. Ketellapper to come to this meeting and explain his reasons for EPA no longer coming to CAG meetings.*

*Audience Member Comment - This is another example of an attempt by EPA of deceptive practices. Senator Baucus has told us to hold EPA's feet to the fire.*

*Audience Member Question - There are only four members of the community in attendance at this meeting. Why do CAG members think this is the case?*

*CAG Member Comment - At the beginning of the CAG, there was a lot of emotion. When Paul Peronard first came to Libby, he set about building trust. When Jim Christensen replaced Mr. Peronard as the Libby team leader, the approach to cleanup changed to containment rather than removal. When Governor Martz used Montana's "silver bullet" to put Libby on the national Superfund List, there was no mention of containment. Trust has diminished. The TAG asked*

*questions, but EPA didn't answer. I asked Kathy Atencio about the technical basis of "non-detect" and the 1% criterion but have not gotten an answer. People are tired of not getting their questions answered.*

*CAG Member Comment - We have experienced several changes in EPA personnel. We are not getting answers to our questions.*

*CAG Member Comment - About 1,100 homes have been cleaned to date. EPA has given them a clean bill of health even though the asbestos has been encapsulated and not removed. Many houses have been dropped from the cleanup list although activity based sampling has not necessarily determined that the cleanups are adequate.*

*CAG Member Comment - The city and county will be asked to adopt regulations for institutional controls for the period after EPA leaves. I understand that draft controls have been written that are so detailed that they would cover stakes being driven into the ground. The draft document has not been released.*

***CAG Action - Those CAG members present at this meeting agreed to send a letter to the EPA Administrator and the Region 8 Administrator asking that EPA attend CAG meetings. Gordon Sullivan will draft the letter and circulate it for signature of CAG members and others in the community.***

## **Agenda**

The CAG agreed to the following agenda for this meeting:

- Old Business
  - Status of the Funding Opportunity Announcement for the ATSDR Libby Amphibole Research Initiative Grant
  - CAG member concerns and priorities
  - Public Health Emergency
  - Planted material at OU-1 and ROD questions
  - GAO complaint
  - EPA remedial funding rules/guidelines
- New Business
  - Student response to the October 2008 CAG meeting
  - Linnert no confidence vote
- Agency Reports
- Public Comment
- Next Meeting Agenda

## **Status of the Funding Opportunity Announcement for the ATSDR Libby Amphibole Research Initiative Grant**

Dan Strausbaugh with the Agency for Toxic Substance Disease Registry (ATSDR) provided a handout containing an update on the status of the Funding Opportunity Announcement (FOA). See Appendix 4.

*Audience Member Question - Is the grant for research with St. John's Lutheran Hospital and the Center for Asbestos Related Disease (CARD)?*

Answer - This is the \$8 million initiative presented last June by Dr. Frumkin. Two grants will be offered through the initiative; one for the Libby health initiative study, and the other for the study on the Marysville cohort. One of the grant requirements is that applicants demonstrate experience conducting community-based research and how they would utilize resources in Libby (e.g. Hospital and CARD). A hard copy of the FOA will be available at the EPA Office in Libby.

*Audience Member Question - Is the initiative still on the same time line?*

Answer - It is a couple of months behind. The process for issuing the grant proposal is a new one for ATSDR. We now are required to go through the Environmental Research Program at the Centers for Disease Control, which has resulted in delay. As stated in the handout, proposals in response to the FOA are due on March 16, 2009. A review panel will consider the proposals in June and July. We expect the grant award by the end of this fiscal year, probably in September.

*Audience Member Question - Is this grant just for toxicological work?*

Answer - No. EPA is conducting the toxicological studies. The ATSDR award will be for a five year period and will address epidemiological studies.

*Audience Member Comment - What will come out of the grant studies?*

Answer - The results will be information about asbestos-related disease, including affects of asbestos exposure. The actual content of the research will be determined by the research institution, the institution will solicit support from the community before submitting their application.

*CAG Member Question - Will EPA issue a record of decision (ROD) concerning the cleanup without the ATSDR funded studies?*

Answer - Yes. The ATSDR epidemiological studies are not specifically designed for the ROD. The EPA toxicological studies will be used for the ROD.

*CAG Member Comment - EPA is apparently planning to release a couple of "qualitative" RODs before the toxicological studies are concluded.*

*CAG Member Comment - There has been a wealth of epidemiological studies on asbestos world wide. Articles have been written about the affects of lower level exposures to asbestos. We should be able to get results within six months.*

Response - Researchers typically conduct extensive literature reviews prior to conducting studies. The epidemiological studies funded by this grant will be based on the population exposed in Libby.

*CAG Member Question - The parameters of the research will be established by the grant award?*

Answer - Yes. For example, the researchers will be required to demonstrate the ability to work with the Libby medical/research community and a research station will be established here.

*Audience Member Question - Why waste this money, when books are already available containing the results of toxicological studies on rats and children?*

*CAG Member Comment - Some of the proposed research was spurred by CARD requests. Hopefully it will not duplicate existing studies.*

Response - In 2003, ATSDR conducted a public health assessment that identified data gaps. The public health assessment and also the ATSDR Toxicological Profile (Asbestos) helped lead to this initiative.

*Audience Member Comment - I have requested from EPA a copy of the final 2000 toxicological profile, but it wasn't provided.*

Response - I don't know if hard copies are still available, but it is on the ATSDR web site, and a copy is available in the EPA Information Center.

## **Joint CAG/TAG Meeting**

Phillip Erquiaga stated that a joint CAG and TAG meeting will occur on Thursday, March 12, 2009 at 7:00 p.m. in the Little Theater. Dr. Brad Black will present information about the effects of low level asbestos exposure. The new TAG Technical Advisor, Terry Spear, will also be present. Also, there will be a meeting next week between TAG board members and CAG members to discuss a new forum that would permit one joint TAG and CAG meeting along with other interested community organizations such as O & M, County Commission, both City Councils, Kootenai River Development Corporation, Healthy Communities, etc., with EPA per month. This meeting will be co-chaired by Commissioner Berget and City Councilman Orr. Gordon Sullivan is leading the effort to organize this meeting.

## **CAG Member Concerns and Priorities**

Mr. Mueller led the discussion of this topic. At the December 11, 2009 CAG meeting, Mr. Ketellapper asked the CAG for a statement about its concerns and priorities. Some CAG members responded to this requested by emailing their individual concerns and priorities to Mr. Mueller, and he circulated them to all CAG members prior to this meeting. CAG members present at this meeting added to the list. Audience members added their individual concerns and priorities as well. The combined list follows. Mr. Orr asked that his list of concerns and priorities be attached to the meeting summary, and they are included below in Appendix 5. Mr. Mueller stated that he would circulate the list of individual CAG and audience member concerns for comment.

*CAG Member Comment - Mr. Ketellapper should respond to CAG concerning the list of concerns and priorities by March 11, 2009.*

### Individual CAG and Audience Member Concerns and Priorities

- Delay in determining the health affects of exposure - the "what is safe" or "what is clean" questions.
- Leaving materials in houses assures that we will continue to have this problem indefinitely.
- Funding for healthcare needs of the affected populations has not been provided.
- Uncertain clean-up budget - Even with the \$250M in the bank, it seems that clean-up money continues to be an issue. And now we hear that FEWER houses will be cleaned next year?
- The plan to revisit homes and businesses cleaned up under different criteria than we are using today, particularly properties showing up in prior to 2007.
- Hasn't activity based sampling shown that it's best to get rid of any and all visible vermiculite?

- EPA has not responded to the 2003 TAG community response document.
- We need to know the number of homes visited and revisited as a part of the cleanup.
- How many times has EPA revisited homes to evaluate the cleanup containment of asbestos in place?
- Has EPA surveyed the satisfaction of homeowners with the cleanups conducted to date?
- If a survey has been conducted, the CAG should be given its results.
- What engineering reports and data support EPA's decision to leave vermiculite in walls?
- Is a risk assessment a response action?
- What does EPA plan to do about damage control in response to the "Living with Vermiculite" brochure?
- Who is entitled to the list of houses that have been cleaned to date?

## **Public Health Emergency**

DC Orr stated that at the January 8, 2009 CAG meeting Ted Linnert passed out and quoted from a June 30, 2003 letter to the CAG from ATSDR Administrator Dr. Gerberding to explain why the focus on the declaration of a public health emergency may not result in money for health care needed by the Libby community. Mr. Orr then referenced the following section of the report by the Majority Staff of the Environment and Public Works Committee entitled, *EPA's Failure to Declare a Public Health Emergency in Libby, Montana*.

On June 20, 2003, Dr. Julie Louise Gerberding, the Administrator of ATSDR, sent a letter to the Libby Community Advisory Group in response to their request that ATSDR declare a public health emergency so Libby residents could get medical care from the federal government. In her letter explaining why ATSDR would not declare a public health emergency, Dr. Gerberding explained that sections 104(i)(1)(D) and (E) of CERCLA:

...were originally enacted to provide immediate healthcare assistance in the event of an emergency situation to supplement local emergency healthcare services which might be unable to meet critical short-term healthcare needs. HHS lacks the resources or the statutory authority to provide long-term healthcare under CERCLA or any other existing federal legislation.

There is nothing in CERCLA that supports the Administrator of ATSDR's interpretation, nor was Staff able to find any legislative history that would support an interpretation other than the plain meaning of the statute. Contrary to Dr. Gerberding's assertions in her letter, sections 104(i)(1)(D) and (E) clearly provide not just the authority but the duty for ATSDR to provide medical care and any other assistance appropriate under the circumstances.

Mr. Orr requested that Dr. Gerberding's letter be appended to the summary of the meeting. See Appendix 6.

*Comment by Clinton Maynard - Senator Baucus needs to be commended for having not only listened to the voices of the majority but the minority as well.*

## **Planted Material at OU-1 and ROD Questions**

DC Orr stated that he does not accept the allegation that the asbestos contaminated material was planted at the River Front Park at OU-1. He said that according to Mike Cirian the contaminated area was 6 inches wide and 150 feet long. To address the contamination, material was removed in a 10,545 square foot area along the service road and 12,550 square feet in the parking area. In total, some 700 cubic yards of material was removed. He said that he has not received an answer to his question about where the material removed was taken. Mr. Orr said that he thought that the contractor ER benefited from this event. Mr.

Mr. Orr stated that Ted Linnert had promised to bring answers to the City Council meeting to the questions concerning the ROD at OU-1 that were included in Appendix 4 of the January 8, 2009 meeting summary, but he did not do so.

## **GAO Complaint, EPA Remedial Funding Rules/Guidelines, and New Business**

Because of a lack of time at this meeting, Mr. Mueller postponed consideration of the two remaining old business and the new business topics until the next meeting.

## **Public Comment**

*Audience Member Comment - We need another attempt to reach out and involve more people in the CAG.*

Response by Mr. Erquiaga - We will be considering a new joint CAG/TAG forum to reduce the number of meetings. Some people have the impression that all we do at CAG meetings is argue.

*CAG Member Comment - This entire Superfund response is about cleaning houses. EPA has successfully diverted us to other topics. If we focused on cleaning houses, people will be interested.*

*CAG Member Comment - After the public meeting on Monday, I received nine telephone calls from people regarding possible contamination from changing electrical outlets.*

*Audience Member Comment - This has been a good meeting that covered useful topics.*

## **Note**

The summary of the February 11, 2009 Libby Superfund Site O&M meeting prepared by the group's facilitator Sandy Matheny is attached as Appendix 7.

## **Next Meeting**

A joint TAG/CAG meeting is scheduled for 7:00 to 9:00 p.m. on March 12, 2009 in the Little Theater.

**Appendix 1**  
**Libby CAG Meeting Attendance List**  
**February 12, 2009**

<b>Members</b>	<b>Group/Organization Represented</b>
Phillip Erquiaga	Community Member/Libby
DC Orr	Libby Citizen
Gordon Sullivan	Self
Gary D. Swenson	Libby Volunteer Fire Department
Ken Hays	Senior Citizens
Mike Giesey	CARD
Clinton Maynard	



## Appendix 2

February 11, 2009

Hi Gerald,

Your good wishes must have had legs because the TAG meeting went very smoothly, my dilemma never came up and every single member of the Vocal Minority was there (when I saw them all there, which is unusual for TAG, I thought I was toast).

It was actually a very interesting meeting. There is a movement afoot within the community to combine the informational portion of the TAG & CAG meetings - a lot of details need to be worked out, but you will probably hear more about this idea tomorrow night. New EPA Team Leader Victor has a different M.O. with regards to these community group meetings: he wants the community to discuss their issues without EPA present and then bring their consensus opinion/questions/recommendation to EPA at some other forum (or by invitation to the combined meeting). I don't know how all this will work out, but I think it's time for a little cage rattling.

So EPA will not be at the CAG, I'm leaving with the rest of the crew Thursday morning (I never secured a ride to Spokane on Friday anyway). Mike may come briefly to help you set up the new sound system, though it's supposed to be very straightforward. Linda will either open up the room or make arrangements with you to get you the key (you might want to call her when you get to town). Victor has also issued the edict that EPA contractors won't get paid for the time they spend attending these meetings, so their attendance will probably fall way off, especially at first (they are encouraged to attend as regular old citizens if they wish).

I don't know what to tell you about this students' list fiasco. I can tell you and you can tell the CAG that the teacher and school district have expressly asked me not to discuss this issue in public - they are past it and want it to die as merciful and quick a death as possible (and so do I, of course). The Vocal Minority may have a completely different idea. It seems like all of the rational Board members aren't going to be there either and I'd like to think that if they were there they wouldn't even allow this silly "vote of no confidence." I wish I could be there to defend myself, but it would probably become a shouting match and I'd wind up saying something stupid and be in more trouble when it's all over. Also, the school district's wishes are more apt to come true if I'm not there to humiliate and feed the fire. I still feel the CAG should be addressing the nature of the students' criticism rather than how the message got out, which is none of their business (the teacher has since told me that he did plan on getting the list to the CAG eventually, but more in a spirit of offering constructive suggestions, which was more or less my intention as well except that I took particular glee in the fact that they were specifically describing the Vocal Minority, who I think need all the blunt criticism they can get.

So, have fun tomorrow night. I look forward to reading your summary.

Ted Linnert  
Office of Communication & Public Involvement



### Appendix 3

## February, 2009-EPA Weekly Master Schedule

TIME	Monday February 9, 2009	Tuesday February 10, 2009	Wednesday February 11, 2009	Thursday February 12, 2009
8:00 am		Healthy Communities Initiative @ St. John's Lutheran Hospital -EPA Team	O&M Meeting @ Venture Inn	EPA, Volpe, CDM Team Meeting
9:00 am		Mike to Meet with Courtney and Nick Raines @EPA Info Center.		
10:00 am		Libby Tour MC, VK, RL, RT & TL -Processing Areas	Ted to meet with Catherine LeCours @ Info Center	
11:00 am			Tour of the St. Johns Hospital with Bill Patten	
12:00 PM	Lunch	Lunch	Chamber of Commerce Lunch Fiesta Bonita-SJLH Speaker	ARD Net Lunch-Tentative
1:30 PM		Cabinet View Golf Course Haines-4817w/EPA, Volpe and CDM Discuss cleanup status @ EPA Info Center	Paul Rummelhart-293-8406 & Mike Hancox @EPA Info Center	
3:00 PM		Dr. Black Card Clinic Tour @EPA Info Center	Parkers-406/293-9705 Mc Garry-406/293-6326 Wise-406/293-8363 @ Parkers 472 Riverview Dr	
4:00 PM			MC & TV to Ramos' Property	
5:30 PM			Libby City Council Meeting 293-2731 Libby City Hall	Dinner w/Facilitator
7:00 PM	EPA Town Meeting Little Theatre	TAG Meeting- Flathead Valley Community College		CAG Meeting City of Libby-Ponderosa Room

**Appendix 4**  
**ATSDR LIBBY, MONTANA AMPHIBOLE**  
**EPIDEMIOLOGY RESEAERCH PROGRAM**  
**UPDATE**  
**February 12, 2009 CAG Meeting**

1. FOA TSO9-00 *1 Libby, Montana Amphibole Epidemiology Research Program* was announced on January 16th via [www.grants.gov](http://www.grants.gov). The application due date is March 16<sup>th</sup>.
2. For financial questions contact Gladys T. Gissentanna at the Procurement and Grants Office, CDC - 770 488--2741 E-mail [gcg4@cdc.gov](mailto:gcg4@cdc.gov)
3. For general questions contact:  
  
Technical Info Management Section  
770 488-2700  
Email [PGOTIM@cdc.gov](mailto:PGOTIM@cdc.gov)
4. Scientific Contact:  
  
Paul Mehta, MD  
770 488-0556  
Email [pum4@cdc.gov](mailto:pum4@cdc.gov)
5. A CDC peer review panel will be established to review all applications after the March 16 deadline. The anticipated date for the review will be during June-July. The anticipated award date is September.

## **Appendix 5**

### **DC Orr Concerns and Priorities**

One of our homework assignments at CAG has been to bring the new 'Team Leader'. Victor Kettelapper up to speed on the issues. He asked for three items, I cant limit myself in that fashion.

Number One; Institutional memory in the EPA staff assigned on this site.

The people of this community have asked some great questions in the two hours a month provided only to get the packaged response, "I wasn't here then, I will get that information and get back to you". At the top level, EPA has had 8 Agency Administrators since this issue came to national attention. Region 8 has had four Regional Directors, exposing a dangerous instability in the organization. How can we expect any kind of dedication or continuity when this agency has a turnover rate higher than the local minimum wage employer? Even if they are interested, that doesn't give them time to find Libby on the map. Get someone in here who has authority to answer our questions, the knowledge to do it truthfully and the time to learn the issues. Which brings us to...

Number Two, Credibility

EPA has no credibility at this point, even though I may ask a question I have no assurance that it will be answered truthfully. I have attached a half page list of EPA lies that I put together while writing this note. L always go back to the "Living with Vermiculite" brochure because it was so contentious and was settled with such finality by the OIG and our Congressional delegation on the side of the community. Clinton Maynard simply started out trying to protect his neighbors from this O&M propaganda. He was brutally marginalized by tactics we haven't seen since the Salem witch hunts. The lies EPA told to support this fiction are too many to detail here. In the end, Congressman Baucus and the OIG were forced to expend great time and expense to disprove something that was universally identified as tripe by everyone but the EPA personnel on the wound in Libby. Talk about waste, fraud, and abuse! The damage to EPA's credibility has never been restored. If we are all working toward the same end, protection of human health, why does EPA feel a need to deceive? This question is a great segue to...

Number Three; Transparency and public participation

As a new City Councilman I am finally privy to the totality of the secrecy in the private dealings on the Export Plant, Oh1,2 or 4 depending on the information you are viewing. In spite of numerous calls for transparency in CAG meetings, subjecting myself to threat of arrest at City council meetings, and letters to every dignitary in sight asking for assistance, no one took interest in this situation. The end result is that none of these political leaders has any idea what has been done at the Export Plant. Every dealing was done in private with the Mayor who had a conflict of interest. Only when EPA wanted to initiate a ROD and kicked in legal proceedings were we able to start a dialog on these issues. Even then, EPA announced the ROD to everyone but the City Council. They were so used to dealing out of the sight of the public that they neglected to tell our civic leaders that EPA had initiated an action that would affect every one of their constituents. EPA wants to sneak out of here with as much of Graces' money as possible, protecting human health is not their primary concern. While we are on the subject of money...

Number Four; Budget

This has become a huge concern since Ted Linnert sold this community on the settlement with the story of 12, 15,20 percent interest. Ted said the settlement would be "more money than we can spend". EPA was forced to take pennies on the dollar because they failed to declare a Public Health Emergency and are left with fragmented authority which affects their budget. The reality is that, since this project has been pushed ahead of the science and we now realize that every property to date will have to be revisited, \$250 million doesn't look like it will go very far. EPA is no longer able to mine Graces' pockets on an indefinite scale, when that money is gone there will be heck to pay. So EPA has started cutting corners on their work and shifting the burden to our State and local entities in the form of O&M. Political priorities have always been an issue so...

Number Five, Political priorities versus human health (the air in Manhattan scenario)

Human health was affected by political priorities in Libby starting in the seventies. EPA claimed they had fragmented authority, poor funding, and communication problems that left a generation exposed to this substance resulting in demonstrable death and disease unparalleled in EPA history. Nothing has changed. EPA uses those same excuses today. The EPW committee report has blasted every argument against a Declaration of Public Health Emergency out of the water, the only remaining excuse for this failure is political priorities. I have a hard time separating the motives

here, is it arrogance, ignorance or...

#### Number Six; Corruption and Accountability

As a contractor, I have a unique perspective and insight on the problems arising out of the EPA contracting and oversight policies. Time and space won't permit an in depth critique of the issue here. EPA's disparity in dealing with ER and ASW last spring just touches the surface where we see how this can afflict human health. ER was allowed to use unfiltered mine waste water for years to decon their trucks. They used contaminated soil for restorations. They ignore PPE and cross-contamination policy. The quantity of materials used and billed for are constantly in question. We are even discussing whether ER planted material in a public park for profit. ASW was run out of town before they had a chance to compete. Competition would go a long way toward eliminating the appearance of impropriety. Why is it not allowed?

EPA lies

We'll be gone in four years

We bent over backwards to please the Parkers

Short-term low-dose exposure is not a concern

The "gag order" is tied to the criminal case

Risk assessment can come later

We will publicly announce the results of our investigation

We can move forward without a declaration of a Public Health Emergency

Accepting a bribe is not a conflict of interest

We'll get 12, 15 maybe 20 percent interest it will be more money than we can spend

We are reducing exposures in Libby

This is a mining disaster, not regulatory failure

Our restoration topsoil is clean

Non-filtered decontamination water is not a concern

Highway 37 is contaminated

Highway 37 is not contaminated

A local legislator once threw EPA officials off of his property

Those tarps are protective

HCI and O&M actions are transparent

We couldn't find the source of the rocks in the creek

The mayors corruption only spread "clean" vermiculite

The air is safe to breathe in Manhattan

The city didn't ask for building replacements

The fibers in Helena were not the result of sloppiness in Libby

The contamination at the Export Plant is a mystery

Asa Wood walk path wasn't the source of contamination on the playground

The PA system is not needed

**Agency for Toxic  
Substances and Disease  
Registry  
Atlanta, GA 30333**

**JUN 20 2003**

Mr. Clinton Maynard  
Libby Community Advisory Group  
1116 Louisiana Avenue  
Libby, Montana 59923

Dear Mr. Maynard:

Secretary Thompson has asked me to thank you for your letter and to respond directly to you regarding community health concerns associated with exposure to asbestos in Libby, Montana.

I understand the seriousness of your concerns. Libby continues to be one of the most important environmental public health sites in our nation. During the past 3-1/2 years, public health, healthcare, and mental health agencies of the Department of Health and Human Services (HHS) have worked closely with the community, the Environmental Protection Agency (EPA), and state and local agencies to halt exposure to vermiculite contaminated with tremolite asbestos and to build health capacity at the local level.

The Agency for Toxic Substances and Disease Registry (ATSDR) has also worked proactively with the Health Resources and Services Administration (HRSA) to support community initiatives intended to improve access to healthcare services in Libby. Through a HRSA grant, a federally landed health clinic has been established in Libby. In addition, Lincoln County was recently awarded funds through a HRSA Rural Health Outreach Grant to identify and resolve remaining health issues in Libby. Though these initiatives, HHS has demonstrated its ongoing and long-term commitment to improving the health of Libby residents.

In your letter, you state that the government's response measures thus far are insufficient and request that HHS declare a "Public Health Emergency" as referenced in sections 104(i)(1)(D) and (B) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, 42 U.S.C. 9604(i)(1)(D) and (E). These sections of CERCLA were originally enacted to provide immediate healthcare assistance in the event of an emergency situation to supplement local emergency healthcare services which might be unable to meet critical short-term healthcare needs. U.S. Public Health Service hospitals referenced in section 104(i)(1)(E) of CERCLA, which were originally intended to provide such care in the case of an emergency, were decommissioned in the mid-1980s. HHS lacks the resources or the statutory authority to provide long-term healthcare services under CERCLA or any other existing federal legislation. However, EMS agencies, particularly ATSDR, have

been able to provide appropriate public health services in Libby and at other Superfund sites nationally. EMS agencies will continue to provide critical public health support to the Libby community. A “Public Health Emergency” declaration under CERCLA will not change the agency\*s planned activities, nor will it make additional funds available to ATSDR or HHS under existing appropriations. Therefore, no such declaration is being made at this time.

During the past 3 years, considerable progress has been made towards halting exposure to tremolite asbestos and improving the health of Libby residents. HHS agencies will continue to use appropriate public health resources and work closely with all of the community groups and state, federal, and local agencies that are involved. I remain confident that such collaboration will facilitate sustainable, long-term public health improvements in Libby.

Please feel free to contact the HHS Region VIII Office in Denver, Colorado, at (303) 844-6163 if you, members of the Libby Community Advisory Group, or other residents have any questions regarding HHS’ public health activities or responsibilities in Libby. Questions about ATSDR\*s activities and responsibilities can also be directed to Mr. Dan Strausbaugh, ATSDR Regional Representative assigned to Libby, at (406) 457-5007. Once again, thank you for your interest in this important public health matter.

Sincerely,

Julie Louise Gerberding, M.D., M.P.H.  
Administrator

cc:  
U.S. Congressional Delegation, State of Montana  
Governor Judy Martz, State of Montana

**Appendix 7**  
**-WORKING NOTES -**

<b>Libby Superfund Site O&amp;M Meeting</b> <b>February 11, 2009</b> <b>The Venture Inn</b>
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**AT A GLANCE**

**Next meeting: March 11, 2009; 8:00 – 10:00 am**  
**The Venture Inn – The Fjord Room**

**Actions Needed/Agenda for Next Meeting – March 11<sup>th</sup>, 2008**

- **Review an example Street Management Plan (Rebecca to provide and Sandy distribute).**
- **Expand the group to include additional local State and County representatives (Kathi, Sandy)**
- **Consider how a UDIG process might best work here. (Rebecca will contact UDIG representative)**

**FROM the February 11<sup>th</sup>, 2009 MEETING**

**Attending**

The Operations and Maintenance Team members present: Ted Linnert, Paul Lammers (CDM), Catherine LeCours, Victor Ketellapper, Mike Cirian, Russ Leclerc, Dan Thede, Ron Higgins, Kathi Hooper, Rebecca Thomas and Bob Medler. Community member, D. C. Orr, also participated. Facilitator: Sandy Matheny

**The Agenda**

- 1. Review the Draft Soil Management Handbook for OU#1**
- 2. Discuss the next focus area for the O&M group**

This was also an opportunity for us to get to know Rebecca Thomas and vice verse.

**Review the Draft Soils Management Handbook for OU#1**

We discussed the Draft Soil Management Handbook and its place within the set of documents being prepared for OU#1. Rebecca will be completing the remedial investigation for OU#1 over the next few weeks. The feasibility study/alternatives analysis is to follow shortly after that.

The Soil Management Handbook (or BMPs ) will be used to govern management of waste material in the field. It will supplement the overall O&M Plan (which discusses the remedy, who's responsible, etc.). An IC Plan will serve as an additional supplementary document.

In feedback to the Draft Handbook, the group talked about the option of replacing all backfill materials with clean material. We considered the wisdom of developing utility corridors when the opportunities arise and when it makes sense. A few suggestions for changes and clarification in the history section of the document were also offered.

**The Next Focus Area for the O&M group**

We discussed several potential areas for subsequent focus by this group:



## **1. Disposal of contaminated material**

- A separate site for materials from Troy?
- After the mine site? (An ancillary discussion pointed out the practice of amending/modifying RODs when necessary to address significant differences such as the need to change sites for disposal of contaminated material).
- Should the mine site become unavailable, is there a site nearer town?

We decided that, while it is good to keep the above on the back burner, it is too soon to know what's on the horizon for this right now.

## **2. Alternatives Analysis**

We agreed that most members of the O&M group would be involved in this process through some avenue anyway.

## **3. Street/Easement Management Plan** (including UDIG procedures)

There is a need to address current (and future) issues occurring with contaminated materials along streets, roads and easements. Rebecca will provide an example Street Management Plan for our review for next month. Agency people responsible for transportation in the local area are being invited to participate in the discussions.